

1 COOLEY LLP
REUBEN H. CHEN (228725)
2 (rchen@cooley.com)
LAM K. NGUYEN (265285)
3 (lnguyen@cooley.com)
KYUNG TAECK MINN (334439)
4 (rminn@cooley.com)
3175 Hanover Street
5 Palo Alto, California 94304-1130
Telephone: (650) 843 5000
6 Facsimile: (650) 849 7400

7 Attorneys for Defendant
PARTICLE INDUSTRIES, INC.

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12
13 SOCIAL POSITIONING INPUT SYSTEMS,
14 LLC,

15 *Plaintiffs,*

16 v.

17 PARTICLE INDUSTRIES, INC.,

18 *Defendant.*

Case No. 3:21-cv-00464-WHO

District Judge William H. Orrick

**PARTICLE INDUSTRIES' NOTICE OF
MOTION AND MOTION TO DISMISS FOR
FAILURE TO STATE A CLAIM UNDER RULE
12(B)(6)**

DATE: JUNE 23, 2021

TIME: 2:00 PM

**LOCATION: San Francisco Courthouse
Courtroom 2 – 17th Floor
450 Golden Gate Ave.
San Francisco, CA 94102**

TABLE OF CONTENTS

		Page
1		
2		
3	I. INTRODUCTION	2
4	II. BACKGROUND AND STATEMENT OF FACTS	2
5	III. ARGUMENT	5
6	A. Legal Standard	5
7	1. Federal Rule of Civil Procedure 12(b)(6)	5
8	2. 35 U.S.C. § 101	6
9	B. The '365 Patent Is Invalid Under 35 U.S.C. § 101	7
10	1. <i>Alice</i> step 1: Claim 1 is directed to an abstract idea.....	7
11	a. Claim 1 is directed to the abstract idea of sharing address	
12	information.....	7
13	b. Claim 1 is not directed to a specific improvement to	
14	computer functionality.	9
15	2. <i>Alice</i> step 2: Claim 1 does not recite an inventive concept.....	13
16	3. The remaining claims are also abstract.	15
17	IV. CONCLUSION	16
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		

TABLE OF AUTHORITIES**Page(s)****Cases**

<i>Affinity Labs of Tex. v. DirecTV</i> , 838 F.3d 1253 (Fed. Cir. 2016).....	4, 12
<i>Alice v. CLS Bank Int'l</i> , 573 U.S. 208 (2014).....	<i>passim</i>
<i>Apple v. Ameranth</i> , 842 F.3d 1229 (Fed. Cir. 2016).....	9
<i>Ashcroft v. Iqbal</i> , 556 U.S. 662 (2009).....	5
<i>Bell Atl. v. Twombly</i> , 550 U.S. 544 (2007).....	5
<i>Bilski v. Kappos</i> , 561 U.S. 593 (2010).....	6
<i>BSG Tech v. Buyseasons</i> , 899 F.3d 1281 (Fed. Cir. 2018).....	13
<i>buySAFE v. Google</i> , 765 F.3d 1350 (Fed. Cir. 2014).....	14
<i>Cellspin Soft, Inc. v. Fitbit, Inc.</i> , 927 F.3d 1306 (Fed. Cir. 2016)	2, 8
<i>ChargePoint v. SemaConnect</i> , 920 F.3d 759 (Fed. Cir. 2019), <i>cert. denied</i> , 140 S. Ct. 983 (2020)	5
<i>Content Extraction & Transmission LLC v. Wells Fargo Bank N.A.</i> , 776 F.3d 1343 (Fed. Cir. 2014)	15
<i>Credit Acceptance v. Westlake Servs.</i> , 859 F.3d 1044 (Fed. Cir. 2017).....	14, 16
<i>CyberSource v. Retail Decisions</i> , 654 F.3d 1366 (Fed. Cir. 2011).....	8
<i>Diamond v. Chakrabarty</i> , 447 U.S. 303 (1980).....	6
<i>Diamond v. Diehr</i> , 450 U.S. 175 (1981).....	6

1	<i>Elec. Commc’n Techs. v. ShoppersChoice.com</i> ,	
2	958 F.3d 1178 (Fed. Cir. 2020).....	14
3	<i>Elec. Power Grp. v. Alstom S.A.</i> ,	
4	830 F.3d 1350 (Fed. Cir. 2016).....	6, 8, 16
5	<i>Enfish, LLC v. Microsoft Corp.</i> ,	
6	822 F.3d 1327 (Fed. Cir. 2016)	2, 9, 11
7	<i>Ericsson v. TCL Commc’n Tech. Holdings</i> ,	
8	955 F.3d 1317 (Fed. Cir. 2020).....	6, 8, 12
9	<i>Evolutionary Intelligence v. Sprint Nextel</i> ,	
10	677 F. App’x 679 (Fed. Cir. 2017)	15
11	<i>FairWarning IP v. Iatric Sys.</i> ,	
12	839 F.3d 1089 (Fed. Cir. 2016).....	5
13	<i>Fitbit Inc. v. AliphCom</i> ,	
14	16-cv-00118-BLF, 2017 WL 819235 (N.D. Cal. Mar. 2, 2017).....	12
15	<i>Gottschalk v. Benson</i> ,	
16	409 U.S. 63, 67 (1972).....	6
17	<i>Hewlett Packard Co. v. ServiceNow, Inc.</i> ,	
18	14-cv-00570-BLF, 2015 WL 1133244 (N.D. Cal. Mar. 10, 2015).....	12
19	<i>Intellectual Ventures I v. Capital One Bank (USA)</i> ,	
20	792 F.3d 1363 (Fed. Cir. 2015).....	14, 15
21	<i>Intellectual Ventures I v. Capital One Fin.</i> ,	
22	850 F.3d 1332 (Fed. Cir. 2017).....	4
23	<i>Interval Licensing v. AOL</i> ,	
24	896 F.3d 1335 (Fed. Cir. 2018).....	11
25	<i>Internet Patents Corp. v. Active Network, Inc.</i> ,	
26	790 F.3d 1343 (Fed. Cir. 2015)	12
27	<i>Location Based Servs. v. Niantic</i> ,	
28	295 F. Supp. 3d 1031 (N.D. Cal. 2017), <i>aff’d</i> , 742 F. App’x 506 (Fed. Cir. 2018)	15
	<i>Mayo Collaborative Servs. v. Prometheus Labs., Inc.</i> ,	
	132 S. Ct. 1289, 1294 (2012)	6, 7
	<i>Opentv, Inc. v. Apple Inc.</i> ,	
	5:15-cv-02008-EJD, 2016 WL 344845 (N.D. Cal. Jan. 28, 2016)	11

1	<i>Papasan v. Allain,</i>	
2	478 U.S. 265 (1985)	11
3	<i>Parker v. Flook,</i>	
4	437 U.S. 584 (1978)	6
5	<i>RecogniCorp v. Nintendo Co.,</i>	
6	855 F.3d 1322 (Fed. Cir. 2017).....	6
7	<i>Return Mail, Inc. v. U.S. Postal Service,</i>	
8	868 F.3d 1350 (Fed. Cir. 2017).....	9
9	<i>SAP Am. v. Investpic,</i>	
10	898 F.3d 1161 (Fed. Cir. 2018).....	5
11	<i>Secured Mail Sols. v. Universal Wilde,</i>	
12	873 F.3d 905 (Fed. Cir. 2017).....	8
13	<i>Silver State Intellectual Techs. v. Facebook,</i>	
14	314 F. Supp. 3d 1041 (N.D. Cal. 2018)	15
15	<i>Synopsys v. Mentor Graphics,</i>	
16	839 F.3d 1138 (Fed. Cir. 2016).....	11
17	<i>In re TLI Commc'ns Patent Litig.,</i>	
18	823 F.3d 607 (Fed. Cir. 2016).....	8, 9, 12
19	<i>In re TLI Commc'ns Patent Litig.,</i>	
20	87 F. Supp. 3d 773, 794 (E.D. Va. 2015).....	13
21	<i>TriDim Innovations v. Amazon.com,</i>	
22	207 F. Supp. 3d 1073 (N.D. Cal. 2016)	12
23	<i>Two-Way Media v. Comcast Cable Commc'ns,</i>	
24	874 F.3d 1329 (Fed. Cir. 2017).....	6, 8, 12, 14
25	<i>Ultramercial v. Hulu,</i>	
26	772 F.3d 709 (Fed. Cir. 2014).....	5, 6, 13
27	<i>Voter Verified v. Election Sys. & Software,</i>	
28	887 F.3d 1376 (Fed. Cir. 2018).....	5
	<i>WhitServe v. Donuts,</i>	
	809 F. App'x 929 (Fed. Cir. 2020)	5
	<i>Windy City Innovations v. Microsoft,</i>	
	193 F. Supp. 3d 1109 (N.D. Cal. 2016)	5

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Statutes

35 U.S.C. § 101 *passim*

Other Authorities

Federal Rule of Civil Procedure 12(b)(6) 1, 2, 5

NOTICE OF MOTION AND MOTION TO DISMISS

TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD: PLEASE TAKE NOTICE that on June 23, 2021 at 2:00 pm, or as soon thereafter as the matter may be heard in this Court, located at San Francisco Courthouse , Courtroom 2 – 17th Floor, 450 Golden Gate Ave., San Francisco, CA 94102, Defendant Particle Industries, Inc. (“Defendant” or “Particle”) will and hereby does move the Court to dismiss Plaintiff Social Positioning Input Systems, LLC’s (“Plaintiff” or “SPIS”) Complaint (Dkt. 1) with prejudice pursuant to Federal Rule of Civil Procedure 12(b)(6) on the grounds that the claims of U.S. Patent No. 9,261,365 (“’365 patent”) (Dkt.1-1) are invalid under 35 U.S.C. § 101. This Motion is based upon this Notice, the attached Memorandum of Points and Authorities, the pleadings, all matters of which the Court may take judicial notice, and any other argument or evidence that may be presented in support of this Motion.

STATEMENT OF RELIEF REQUESTED

The Complaint asserts one patent: U.S. Patent No. 9,261,365. This motion seeks to invalidate the claims of the ’365 patent under 35 U.S.C. § 101. Particle requests that this Court dismiss SPIS’s Complaint with prejudice pursuant to Fed. R. Civ. P. 12(b)(6) because the claims of the ’365 patent are invalid under § 101. The issue to be decided by this Court is whether the claims of the ’365 patent are directed to an abstract idea and lack an inventive concept, thus constituting patent-ineligible subject matter.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

SPIS's Complaint should be dismissed because the '365 patent is invalid under 35 U.S.C. § 101 for claiming patent-ineligible subject matter.

The claims of the '365 patent are directed at the abstract idea of sharing address information. This falls squarely under the category of "claims reciting the collection, transfer, and publishing of data" that the Federal Circuit has consistently held to be directed to a patent-ineligible abstract idea. *Cellspin Soft, Inc. v. Fitbit, Inc.*, 927 F.3d 1306, 1315 (Fed. Cir. 2016); *see also infra*, Section III.B.1.a. Furthermore, the claims of the '365 patent are not directed to specific improvements in computer functionality. *See Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1336 (Fed. Cir. 2016) (holding that claims directed to a "specific improvement to computer functionality" are patent eligible).

In describing the basic idea of sending and receiving address information, the '365 patent fails to disclose any novel application of that idea. The specification of the '365 patent admits to this by describing the techniques that it utilizes as "conventional," "known," or "standard". *See infra*, Section III.B.1.b. Because the '365 patent merely recites "well-understood, routine [and] conventional activit[ies] previously known to the industry," it does not provide an inventive concept that would render an abstract idea patent-eligible. *Alice v. CLS Bank Int'l*, 573 U.S. 208, 225 (2014) (second alteration in original, internal quotation marks and citation omitted).

The '365 patent is invalid under 35 U.S.C. § 101 for claiming a patent-ineligible abstract idea without disclosing an inventive concept. Particle respectfully requests that the Court dismiss the Complaint for failure to state a claim under Fed. R. Civ. P. 12(b)(6).

II. BACKGROUND AND STATEMENT OF FACTS

On January 20, 2021, SPIS filed this lawsuit accusing Particle of infringing at least claim 1 of the '365 patent. In particular, SPIS accuses Particle's "Particle Industries fleet tracking platform, Particle Tracking System, app, and/or associated hardware and/or software" of infringement. (Dkt. 1, ¶ 21.)

The '365 patent-in-suit is titled "Device, system and method for remotely entering, storing

1 and sharing addresses for a positional information device.” (Dkt. 1-1 (Ex. A is the ’365 patent).)
 2 Filed on September 9, 2013 and issued on February 16, 2016, the ’365 patent claims priority to
 3 April 28, 2006.

4 The specification of the ’365 patent starts out by recognizing problems associated with the
 5 **local** storage of address data on GPS devices. (*See* ’365, 1:26-2:25.) For example, the ’365 patent
 6 states that “different devices recognize addresses differently . . . if a user tries to program the
 7 address 19333 Collins Avenue, Sunny Isles, Fla., many devices will not accept this address . . .
 8 some GPS devices will accept Sunny Isles Beach as the proper address, while others will only
 9 accept North Miami Beach, while still others will require an entry of North Miami, while still others
 10 will only recognize Sunny Isles as the correct entry.” (*See* ’365, 1:56-2:3.)

11 The ’365 patent purports to provide a solution to those problems by **remotely** entering,
 12 storing, and sharing address data for GPS devices. (*See* ’365, 2:46-48.) However, the ’365 patent
 13 merely describes an abstract idea—sharing address information—using conventional components
 14 and communication systems that were known in the prior art. The specification generally describes
 15 remotely sharing addresses amongst GPS devices. (*See* ’365, 8:23-34 (“a system and method for
 16 remotely entering, storing and sharing location address information will be described”).) The ’365
 17 patent contemplates a customer service center that remotely shares address information to GPS
 18 devices. (*See* ’365, 9:29-32 (“[i]n one embodiment, the customer service center includes a live
 19 operator 303 that has access to server 304 for looking up address information and transmitting the
 20 information to the device”).) The specification further describes a variety of situations in which
 21 vehicle drivers need assistance finding or entering address data into their GPS devices. (*See* ’365,
 22 12:9-10 (“[a] driver . . . wishes not to stop but needs direction to a destination.”); 12:27-28 (“[a]
 23 driver of a vehicle needs assistance in locating a point of interest such as a museum in a designated
 24 city.”); 12:40-46 (“[w]hen the driver enters the address information into the vehicle’s GPS device,
 25 . . . [including] different permeations of the address including different cities, different street
 26 numbers, and different spellings of the street . . . [but] nothing works for the driver.”); 13:3-5 (“[a]
 27 driver wishes to be provided route information for a trip.”); 13:18-20 (“[a] driver books a hotel
 28 reservation or a concert event online . . . [and asks for] directions to the location.”); 13:29-32 (“[a]

1 driver of a vehicle needs . . . an address that is stored in his/her other vehicle . . . [that] is not
 2 geographically close.”.) However, the specification does not provide any technical details on how
 3 address information is shared to those drivers in need; the specification merely discloses in
 4 functional terms the driver calling a service operator and the service operator remotely sending
 5 address data to the driver’s GPS device. (*See* ’365, 12:9-13:46.)

6 Moreover, the claims of the ’365 patent are directed to the unremarkable idea of **sharing**
 7 **address information**. Independent claim 1, which is representative, recites:

8 1. A method for receiving location information at a positional information
 9 device, the method comprising:

10 sending a request from a requesting positional information device to
 11 a server for at least one address stored in at least one sending
 12 positional information device, the request including a first identifier
 13 of the requesting positional information device;

14 receiving at the requesting positional information device, from the
 15 server, a retrieved at least one address to the requesting positional
 16 information device wherein the server determines a second identifier
 17 for identifying the at least one sending positional information device
 18 based on the received first identifier and retrieves the requested at
 19 least one address stored in the identified at least one sending
 20 positional information device.

21 (’365, claim 1.) It is straightforward to discern the claimed concept after “[s]tripping [the claim]
 22 of excess verbiage”. *Affinity Labs of Tex. v. DirecTV*, 838 F.3d 1253, 1256-57 (Fed. Cir. 2016);
 23 *Intellectual Ventures I v. Capital One Fin.*, 850 F.3d 1332, 1341 (Fed. Cir. 2017.) The claimed
 24 method simply (i) requests positional information from a device to another device via a server, and
 25 (ii) receives the requested positional information from the other device via a server. (*See* ’365,
 26 claim 1.) This amounts to the abstract idea of sharing address information.

27 The technical-sounding “jargon” in claim 1—such as “positional information device,” “first
 28 identifier,” and “second identifier”—are not technical at all. The specification admits that the
 “positional information devices” are understood to be generic GPS devices. (*See* ’365, Abstract
 (“a positional information device, e.g., a global positioning system (GPS) device”).) The
 specification also reveals that “identifiers” are understood to be mobile phone numbers, IP
 addresses, or Internet cookies. (’365, 2:57-59 (“[t]he receiving step includes receiving an identifier
 of the device, wherein the identifier is a mobile phone number or an IP address.”); 10:33-35 (“the

1 user may be identified at the server by an identifier, e.g., an Internet cookie, previously placed on
 2 the user's local computer 310.”.) Thus, claim 1 of the '365 patent recites using generic techniques
 3 to establish a communications link between one or more devices and transfer information. No
 4 technical details are disclosed, much less claimed, as to how these processes are accomplished.
 5 The '365 patent relies on preexisting technologies to accomplish real-world tasks.

6 **III. ARGUMENT**

7 **A. Legal Standard**

8 **1. Federal Rule of Civil Procedure 12(b)(6)**

9 Under Fed. R. Civ. P. 12(b)(6), a party may move to dismiss a complaint that fails to state
 10 a claim upon which relief can be granted. A dismissal under Fed. R. Civ. P. 12(b)(6) is proper
 11 where, as here, there is a “lack of a cognizable legal theory or the absence of sufficient facts alleged
 12 under a cognizable legal theory.” *Windy City Innovations v. Microsoft*, 193 F. Supp. 3d 1109, 1112
 13 (N.D. Cal. 2016) (citations omitted). The complaint must plead “enough facts to state a claim [for]
 14 relief that is plausible on its face.” *Bell Atl. v. Twombly*, 550 U.S. 544, 570 (2007). Although
 15 factual allegations are taken as true, legal conclusions are given no deference—those matters are
 16 left for the court to decide. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (noting the tenet that
 17 factual allegations are taken as true on a motion to dismiss “is inapplicable to legal conclusions”).
 18 Courts do not assume facts not alleged, nor do they draw unwarranted inferences, but should draw
 19 on their common sense and judicial experience. *See id.*, 556 U.S. at 679.

20 Patent ineligibility under 35 U.S.C. § 101 is a threshold issue that is routinely resolved on
 21 a Rule 12(b)(6) or (c) motion as a matter of law. *E.g., ChargePoint v. SemaConnect*, 920 F.3d 759,
 22 765-66, 777 (Fed. Cir. 2019) (affirming grant of 12(b)(6) motion of § 101 invalidity); *Voter Verified*
 23 *v. Election Sys. & Software*, 887 F.3d 1376, 1384-85, 1386 (Fed. Cir. 2018) (same); *FairWarning*
 24 *IP v. Iatric Sys.*, 839 F.3d 1089, 1097 (Fed. Cir. 2016) (same); *WhitServe v. Donuts*, 809 F. App'x
 25 929, 932 (Fed. Cir. 2020) (same); *SAP Am. v. Investpic*, 898 F.3d 1161, 1166 (Fed. Cir. 2018)
 26 (affirming grant of 12(c) motion of § 101 invalidity). Resolving patent ineligibility on the pleadings
 27 minimizes “expenditure of time and money by the parties and the court,” guards against “vexatious
 28 infringement suits[,]” and “protects the public” from patents that improperly monopolize the public

store of knowledge. *Ultramercial v. Hulu*, 772 F.3d 709, 719 (Fed. Cir. 2014) (Mayer, J., concurring) (citing *Twombly*, 550 U.S. at 558).

2. 35 U.S.C. § 101

35 U.S.C. § 101 sets forth four categories of patentable subject matter: “any new and useful process, machine, manufacture, or composition of matter.” The law also recognizes three exceptions to patent eligibility: “laws of nature, physical phenomena, and **abstract ideas**.” *Diamond v. Chakrabarty*, 447 U.S. 303, 308 (1980) (emphasis added). Abstract ideas are ineligible for patent protection because a monopoly over these ideas would preempt their use in all fields. *See Bilski v. Kappos*, 561 U.S. 593, 611-12 (2010). “[A]bstract intellectual concepts are not patentable, as they are the basic tools of scientific and technological work.” *Id.* at 653 (citing *Gottschalk v. Benson*, 409 U.S. 63, 67 (1972)).

The Supreme Court’s two-step *Alice* test is used to determine whether a patent claim is directed to patent ineligible subject matter. *Alice*, 573 U.S. at 217. At *Alice* **step one**, the court determines whether the claims are “directed to” a patent-ineligible concept, such as an abstract idea. *Id.* The court determines whether the claims’ “focus”—*i.e.*, their “character as a whole”—is an abstract idea. *Elec. Power Grp. v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016). If the court finds that the claims are abstract, it must then determine under *Alice* **step two** whether the claims recite an “inventive concept” sufficient to “transform the nature of the claim into a patent-eligible subject matter.” *Ultramercial*, 772 F.3d at 715-16; *Alice*, 573 U.S. at 214-17.

Federal Circuit law holds: “[t]o save a patent at step two, an inventive concept must be evident **in the claims**.” *Two-Way Media v. Comcast Cable Commc’ns*, 874 F.3d 1329, 1338 (Fed. Cir. 2017) (emphasis added) (citing *RecogniCorp v. Nintendo Co.*, 855 F.3d 1322, 1327 (Fed. Cir. 2017)); *Ericsson Inc. v. TCL Commc’n Tech. Holdings*, 955 F.3d 1317, 1329 (Fed. Cir. 2020) (“no reason to import the allegedly novel layered architecture described in the specification into the language of the claims”). Transformation into a patent-eligible application requires “more than simply stating the abstract idea while adding the words ‘apply it.’” *Alice*, 573 U.S. at 221 (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 132 S. Ct. 1289, 1294 (2012)). Token or insignificant pre- or post-solution activity—such as identifying a relevant audience, category of

use, field of use, or technological environment—does not meaningfully limit a claim as to make it patent-eligible. *See, e.g., Mayo*, 132 S. Ct. at 1297-98, 1300-01; *Bilski*, 561 U.S. at 610; *Diamond v. Diehr*, 450 U.S. 175, 191-92 n.14 (1981); *Parker v. Flook*, 437 U.S. 584, 595 n.18 (1978). Finally, “simply appending conventional steps, specified at a high level of generality, to laws of nature, natural phenomena, and abstract ideas cannot make those laws, phenomena, and ideas patentable.” *Mayo*, 132 S. Ct. at 1300. A claim reciting merely “well-understood, routine [and] conventional activit[ies] previously known to the industry” cannot provide an inventive concept. *Alice*, 573 U.S. at 225 (second alteration in original, internal quotation marks and citation omitted).

B. The '365 Patent Is Invalid Under 35 U.S.C. § 101

The Complaint should be dismissed with prejudice, because the claims of the '365 patent are invalid under § 101. Claim 1 of the '365 patent fails both steps of the *Alice* test because it is directed to the patent-ineligible abstract idea of requesting and receiving address information.

1. Alice step 1: Claim 1 is directed to an abstract idea.

a. Claim 1 is directed to the abstract idea of sharing address information

Claim 1 of the '365 Patent is directed to the abstract idea of sharing address information.

Claim 1 can be broken down as follows:

Claim Language	Claimed Idea
1. A method for receiving location information at a positional information device, the method comprising:	
sending a request from a requesting positional information device to a server for at least one address stored in at least one sending positional information device, the request including a first identifier of the requesting positional information device;	Requesting address information
receiving at the requesting positional information device, from the server, a retrieved at least one address to the requesting positional information device wherein the server determines a second identifier for identifying the at least one sending positional information device based on the received first identifier and retrieves the requested at least one address stored in the identified at least one sending positional information device.	Receiving address information

1 Stripping claim 1 of its verbiage reduces it to two generic limitations, (i) requesting address
 2 information and (ii) receiving address information, which could conceivably cover any generic
 3 process of sharing address information.

4 Courts have found similar patent claims to be directed to abstract ideas. Recently, the
 5 Federal Circuit held that “[c]ontrolling access to resources is exactly the sort of process that ‘can
 6 be performed in the human mind, or by a human using a pen and paper,’ which we have repeatedly
 7 found unpatentable.” *Ericsson Inc.*, 955 F.3d at 1327 (Fed. Cir. 2020) (citing *CyberSource Corp.*
 8 *v. Retail Decisions, Inc.*, 654 F.3d 1366, 1372 (Fed. Cir. 2011)). Claim 1 is analogous to the claims
 9 at issue in *Ericsson* in that requesting and receiving address information are precisely the types of
 10 activities that can be performed “by a human using a pen and paper.” *Id.* For example, a first person
 11 could call a second person located remotely from the first person and ask for address information
 12 of where a third person is located that is known to the second person. In response, the second person
 13 may retrieve the address and then provide it to the requesting first person.¹ Because this process of
 14 controlling access to resources (address information) can be performed entirely by humans with
 15 pen and paper, the claims of the '365 Patent are invalid under the same rationale expressed by the
 16 Federal Circuit in *Ericsson* and *CyberSource*.

17 Claim 1 also falls squarely within the category of “claims reciting the collection, transfer,
 18 and publishing of data” that the Federal Circuit has consistently held to be directed to an abstract
 19 idea. *Cellspin Soft*, 927 F.3d at 1315; *see also Elec. Power Grp.*, 830 F.3d at 1353 (acknowledging
 20 that claims reciting “collecting information, analyzing it, and displaying certain results” fall into “a
 21 familiar class of claims ‘directed to’ a patent-ineligible concept”); *In re TLI Commc'ns Patent Litig.*,
 22 823 F.3d 607, 610 (Fed. Cir. 2016) (concluding that claims reciting “recording . . . storing . . .
 23 transmitting . . . [and] receiving” digital images were directed to an abstract idea); *Two-Way Media*,
 24 874 F.3d at 1337 (holding that the steps of sending, routing, monitoring, and accumulating

25 ¹ An even more specific example would be the following: Jack is at home and needs to pick up his
 26 son John, who is at a friend’s house. Jack doesn’t know the address of the friend’s house and John
 27 recently just received a new cell phone and number, and Jack does not recall the new phone number.
 28 So Jack calls his wife Jill, who is at work. Jill, being more responsible, has her son John’s new
 phone number. Jill calls John and gets the address of where John is located and then provides that
 address to Jack. Jack writes down the address and picks up his son John.

information were directed to an abstract idea). Further, the usage of a “unique identifier . . . does not necessarily render an abstract idea less abstract.” *Secured Mail Solutions, LLC v. Universal Wilde, Inc.*, 873 F.3d 905, 909-10 (Fed. Cir. 2017) (holding that patent claims were “directed to the abstract idea of communicating information about a [mail object]” and that the use of an identifier did not render the abstract idea patent eligible). This is especially so when the ’365 patent does not recite any “specific details of the [identifier] or the equipment for generating and processing it.” *Id.* at 910. Rather, the specification of the ’365 patent merely discloses that “identifiers” are understood to be mobile phone numbers, IP addresses, or Internet cookies. (’365, 2:57-59 (“[t]he receiving step includes receiving an identifier of the device, wherein the identifier is a mobile phone number or an IP address.”); 10:33-35 (“the user may be identified at the server by an identifier, e.g., an Internet cookie, previously placed on the user’s local computer 310.”).)

Even if claim 1 limits the context of using address information to GPS devices, the Federal Circuit has held that “relaying mailing address data” is a patent-ineligible abstract idea. *Return Mail, Inc. v. U.S. Postal Service*, 868 F.3d 1350, 1368 (Fed. Cir. 2017) (reversed on different grounds). The court in *Return Mail* added that “‘limit[ing] the abstract idea to a particular environment,’ here a mail processing system with generic computing technology, ‘does not make the claims any less abstract for the step 1 analysis.’” *Id.* (citing *In re TLI*, 823 F.3d at 613). Thus, the ’365 patent’s abstract idea of sharing information does not become any less abstract by limiting its application to location or address information.

b. Claim 1 is not directed to a specific improvement to computer functionality.

The Federal Circuit has explained that at *Alice* step 1, “[w]e determine whether the claims ‘focus on a specific means or method that improves the relevant technology’ or are ‘directed to a result or effect that itself is the abstract idea and merely invoke generic processes and machinery.’” *Apple v. Ameranth*, 842 F.3d 1229, 1241 (Fed. Cir. 2016) (citation omitted). Claims that are “directed to a specific improvement to the way computers operate” fall under the former category of patent-eligible subject matter. *Enfish*, 822 F.3d at 1336. Claim 1 of the ’365 patent, on the other hand, falls squarely in the latter category of patent-ineligible abstract ideas. Claim 1, as described

1 in the '365 patent specification, reveals no specific improvement to computer functionality, but
 2 instead shows a heavy reliance on generic computer technologies—or no computer technology at
 3 all—to carry out the abstract idea of sharing address information. (*E.g.*, '365, 2:57-59 (“The
 4 receiving step includes receiving an identifier of the device, wherein the identifier is a **mobile**
 5 **phone number** or an **IP address.**”) (emphasis added); 5:17-25 (“The locational information
 6 module 122 may include a receiver and antenna ANT employing **conventional** locational
 7 information processing technology such as Global Positioning Satellite (GPS) Technology, Loran
 8 Technology, or any other available locational technology, to indicate the exact location or
 9 coordinates, e.g., latitude, longitude and altitude, of the device 100.”) (emphasis added); 5:60-6:3
 10 (“The device 100 of the present disclosure will contain a user input module 126 to either receive
 11 user instructions via text input by the way of buttons 108, a **standard** keyboard interface coupled
 12 to the device, or a character recognition capture device which translates user text input into
 13 alphanumeric characters. . . . Such input devices are **standard** and **currently available** on many
 14 electronic devices including portable digital assistants (PDAs) and cellular telephones.”) (emphasis
 15 added); 6:65-7:5 (“The wireless connection will operate under any of the various **known** wireless
 16 protocols including but not limited to Bluetooth™ interconnectivity, infrared connectivity . . . Wi-
 17 Fi . . . or any other type of communication protocols or systems currently existing or to be developed
 18 for wirelessly transmitting data.”) (emphasis added); 7:5-8 (“The communication module will
 19 compress and encode the encrypted information for transmission using any **known** wireless
 20 communication technology.”) (emphasis added); 8:42-46 (“The server 304 may be connected to
 21 the communications network 302, e.g., the Internet, by any **known** means, for example, a hardwired
 22 or wireless connection 308, such as dial-up, hardwired, cable, DSL, satellite, cellular, PCS, wireless
 23 transmission [], etc.”) (emphasis added); 8:52-58 (“[T]he server 304 will communicate using the
 24 various **known** protocols such as [TCP/IP, FTP, HTTP], etc. and secure protocols such as [IPSec,
 25 PPTP, SSL Protocol], etc.”) (emphasis added); 10:33-35 (“When utilizing the client application
 26 program, the user may be identified at the server by an identifier, e.g., an **Internet cookie**,
 27 previously placed on the user’s local computer 310.”) (emphasis added); 10:39-45 (“The remote
 28 server then utilizes a **standard** database lookup program . . . to find out information on the user’s

1 device[.]”) (emphasis added); 10:46-50 (“The server 304 then resolves the address into longitude
 2 or latitude coordinates using **standard** computer processing power and computer programs on the
 3 global computer network including but not limited to teraserver.microsoft.com, geocoder.us,
 4 yahoo.com, and maporama.com.”) (emphasis added); 10:50-55 (“The server 304 then transmits the
 5 longitude and latitude information to the designated customer GPS devices internal or external
 6 memory. . . . by any **standard** communications protocol now known[.]”) (emphasis added).)

7 As shown, **every single step** of the method disclosed by claim 1 of the ’365 patent is carried
 8 out by “conventional,” “known,” or “standard” technologies. Unlike the invention in *Enfish*,
 9 nothing in the ’365 patent shows any unconventional methodology that would amount to a “specific
 10 improvement to the way computers operate.” *Enfish*, 822 F.3d at 1336. Thus, the focus of the ’365
 11 patent is not “on [a] specific asserted improvement in computer capabilities” but instead “on a
 12 process that qualifies as an ‘abstract idea’ for which computers are invoked merely as a tool.” *Id.*

13 The Complaint attempts to cover up the ’365 patent’s weaknesses by stating that the patent
 14 “recognized problems associated with then-existing devices and methods for route guidance and
 15 address entry into mobile devices.” (Dkt. 1, ¶ 14.) The Complaint goes on to make conclusory
 16 allegations that the “systems embodied in the ’365 Patent claims incorporate hardware and software
 17 components that operate in a way that was neither generic, nor well-known[.]” (Dkt. 1, ¶ 17.) SPIS
 18 finally alleges that “[t]he ’365 patent solves problems . . . rooted in computer technology,” that
 19 “[t]he features recited in the claims in the ’365 Patent provide improvements to conventional
 20 hardware and software systems and methods,” and that “[t]he improvements render the claimed
 21 invention of the ’365 Patent non-generic in view of conventional components.” (Dkt. 1, ¶¶ 18-19.)

22 However, the Court is “not bound to accept as true a legal conclusion couched as a factual
 23 allegation.” *Opentv, Inc. v. Apple Inc.*, 5:15-cv-02008-EJD, 2016 WL 344845, at *3 (N.D. Cal.
 24 Jan. 28, 2016) (citing *Papasan v. Allain*, 478 U.S. 265, 286 (1985)). Moreover, such arguments
 25 find no support in the claim language (nor in the specification) of the ’365 patent. It is well-
 26 established that “[t]he § 101 inquiry must focus on the language of the Asserted Claims
 27 themselves.” *Synopsys v. Mentor Graphics*, 839 F.3d 1138, 1149 (Fed. Cir. 2016) (rejecting
 28 argument that unclaimed details in the specification confer eligibility, despite “200 pages of code”

1 in the specification); *Ericsson*, 955 F.3d at 1329-30. Claim 1 of the '365 patent does not recite a
 2 specific “technical” solution or explain *how* that specific solution supposedly solved a problem in
 3 route guidance and address entry into mobile devices. *See, e.g., Interval Licensing v. AOL*, 896
 4 F.3d 1335, 1346 (Fed. Cir. 2018) (holding that “[b]ecause the instructions discuss only broad
 5 functions and are not directed to any technological improvement for performing those functions”
 6 and never explained “how” the results were accomplished, the claims were invalid under § 101).

7 Instead, the claim language is written in purely functional terms and is not limited to any
 8 particular implementation. Neither the specification nor claim 1 of the '365 patent present the
 9 purported invention a particular form. (*See* '365, 4:16-20 (“it is to be understood the principles of
 10 the present disclosure may be applied to any type of navigation or positional information device
 11 including but **not limited** to a vehicle-mounted device, a GPS receiver coupled to a desktop
 12 computer or laptop, etc.”) (emphasis added); 9:25-29 (“Once connected to the customer service
 13 center, the user can communicate with the customer service center with voice communications or
 14 with a vehicle user interface (VUI) including but **not limited** to keyboard, voice recognition, or
 15 mouse or pointer.”) (emphasis added).) The specification, coupled with the broad functional
 16 language in claim 1, confirms that the '365 patent does not describe how to implement the allegedly
 17 claimed system, much less how to do so in any non-conventional manner. *See Internet Patents*
 18 *Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1348 (Fed. Cir. 2015) (finding an abstract idea where
 19 “[t]he mechanism for [achieving the desired result] is not described, although [it was] stated to be
 20 the essential innovation.”). By only claiming the desired result in a functional manner (requesting
 21 and receiving address information), claim 1 of the '365 Patent falls short of claiming eligible subject
 22 matter under § 101 and does not provide a unique technological improvement. *E.g., id.; Two-Way*
 23 *Media*, 874 F.3d at 1337-38; *DirecTV*, 838 F.3d at 1258 (holding that claims were directed to an
 24 abstract idea where they were “entirely functional in nature” and “untethered to any specific or
 25 concrete way of implementing it.”); *TriDim Innovations v. Amazon.com*, 207 F. Supp. 3d 1073,
 26 1079 (N.D. Cal. 2016) (“Much like the unpatentable subject matter in *TLI Communications*, the
 27 claims in question here are defined only in terms of their functions” (citing *In re TLI*, 823 F.3d
 28 at 613)). “This is because such result-focused, functional claims are ‘drawn to the idea [of the

result] itself,’ rather than a specific implementation of that result.” *Fitbit Inc. v. AliphCom*, 16-cv-00118-BLF, 2017 WL 819235, at *21 (N.D. Cal. Mar. 2, 2017).

Finally, because the claimed system is to be implemented without the use of any specialized hardware or software components, the ’365 patent risks preempting all methods or systems that include sharing address information. *See, e.g., Hewlett Packard Co. v. ServiceNow, Inc.*, 14-cv-00570-BLF, 2015 WL 1133244, at *11 (N.D. Cal. Mar. 10, 2015) (finding that claims “framed in such broad, functional language as to cover any conceivable computer-automated system . . . [would] broadly preempt any computer-automated system . . . [and] inhibit innovation”).

In sum, claim 1 of the ’365 patent is directed to a patent-ineligible abstract idea.

2. Alice step 2: Claim 1 does not recite an inventive concept.

Because the ’365 patent is directed to an abstract idea, the Court must next determine whether it contains an “inventive concept sufficient to transform the claimed abstract idea into a patent eligible application.” *Alice*, 573 U.S. at 221 (quotations omitted). The “inventive concept” is “an element or combination of elements that is ‘sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the [ineligible concept] itself.’” *Id.* at 217-18. To pass this test, a patent claim “must include additional features” that “must be more than well-understood, routine, conventional activity.” *Ultramercial*, 772 F.3d at 715 (quotations omitted).

When searching for the requisite “inventive concept” at step 2, the court’s focus must turn to “whether the claim limitations **other than the invention’s use of the ineligible concept** to which it was directed were well-understood, routine, and conventional.” *BSG Tech v. Buyseasons*, 899 F.3d 1281, 1290 (Fed. Cir. 2018) (emphasis added). Here, when the underlying abstract idea of sharing address information is excluded from the language of claim 1, all that remains are generic techniques that cannot provide patent eligibility. There is no “inventive concept” sufficient to “transform the nature of the claim[s] into patent-eligible subject matter.” *Ultramercial*, 772 F.3d at 715-16; *Alice*, 573 U.S. at 214-17. Although the stated goal of the ’365 patent is to provide “remotely entering, storing and sharing location addresses,” not a single technical improvement is disclosed, much less claimed. (’365, 2:47-48.) The remaining limitations of claim 1 are described

1 only at a high level, consisting of generic functional language like “sending a request” and
 2 “receiving . . . at least one address.” (’365, claim 1.)

3 Even the hardware or software recited in claim 1 is insufficient to impart an “inventive
 4 concept” on the ’365 patent. While the specification purports to describe the structure of an
 5 embedded system capable of sharing address information, nothing in claim 1 nor the specification
 6 discloses how the hardware must be configured in any manner, much less an inventive one. The
 7 claim limitations simply list generic hardware, such as “positional information device” and
 8 “server,” without any improvement in technology. *See In re TLI Commc’ns Patent Litig.*, 87 F.
 9 Supp. 3d 773, 794 (E.D. Va. 2015) (holding that a “telephone unit limitation is another example of
 10 **generic hardware** which does not save Claim 17 because it is **not inventive**”) (emphasis added).
 11 The specification fares no better—a review of the specification reveals that not even a single step
 12 of the method disclosed by claim 1 requires specialized hardware or software. *See supra*, Section
 13 III.B.1.b. “The use and arrangement of conventional and generic computer components . . . such
 14 as a database, user terminal, and server—do not transform the claim, as a whole, into ‘significantly
 15 more’ than a claim to the abstract idea itself.” *Credit Acceptance v. Westlake Servs.*, 859 F.3d
 16 1044, 1056 (Fed. Cir. 2017); *see also buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350, 1355 (Fed.
 17 Cir. 2014) (“That a computer receives and sends the information over a network—with no further
 18 specification—is not even arguably inventive.”); *Two-Way Media*, 874 F.3d at 1339 (finding no
 19 inventive concept when “[n]othing in the claims . . . requires anything other than conventional
 20 computer and network components operating according to their ordinary functions”). Additionally,
 21 an “abstract idea does not become nonabstract by limiting the invention to a particular field of use
 22 or technological environment, such as [GPS Units].” *Intellectual Ventures I v. Capital One Bank*
 23 *U.S.A.*, 792 F.3d 1363, 1366 (Fed. Cir. 2015).

24 The limitations of claim 1—whether considered individually or as an ordered
 25 combination—are insufficient to add “significantly more” to the abstract idea. Because it is
 26 altogether devoid of any “inventive concept,” claim 1 of the ’365 patent is thus patent-ineligible
 27 under § 101. *Alice*, 573 U.S. at 221.

3. The remaining claims are also abstract.

The remaining claims of the '365 patent relate to the same abstract concept of sending and receiving information. The only differences are immaterial in the context of a § 101 analysis. *See Content Extraction & Transmission LLC v. Wells Fargo Bank N.A.*, 776 F.3d 1343, 1348 (Fed. Cir. 2014) (finding analysis of “representative claim” proper where, as here, the claims are “substantially similar and linked to the same abstract idea”).

Independent claim 8 discloses a device that adds “determining location information of the requesting positional information device” and “determin[ing] route guidance based on the location of the requesting positional information device” to the method of claim 1. ('365, claim 8.) However, such reliance on location information does not remove an otherwise patent-ineligible claim from the realm of abstract ideas. Both the Federal Circuit and this Court have repeatedly held that performing an activity “based upon the location of the individual” or object is an abstract idea. *See, e.g., Elec. Commc’n Techs. v. ShoppersChoice.com*, 958 F.3d 1178, 1181 (Fed. Cir. 2020) (lengthy “automated notification system” claim that recited hardware used to “monitor[] the **location** of a mobile thing” was invalid); *Intellectual Ventures I v. Capital One Bank (USA)*, 792 F.3d 1363, 1369 (Fed. Cir. 2015) (“Providing this minimal tailoring—e.g., providing different newspaper inserts based upon the **location** of the individual—is an abstract idea.”); *Evolutionary Intelligence v. Sprint Nextel*, 677 F. App’x 679, 680 (Fed. Cir. 2017) (claims directed to “systems and methods for allowing computers to process data that are dynamically modified based upon external-to-the-device information, such as **location** and time” were invalid); *Location Based Servs. v. Niantic*, 295 F. Supp. 3d 1031, 1040, 1045-49 (N.D. Cal. 2017) (claims reciting “determining a status associated with at least one of the **locations** on the map display” were invalid), *aff’d*, 742 F. App’x 506 (Fed. Cir. 2018); *Silver State Intellectual Techs. v. Facebook*, 314 F. Supp. 3d 1041, 1047-48 (N.D. Cal. 2018) (claims “directed to the abstract idea of storing and selectively sharing **location**-based information” were invalid).

The dependent claims of the '365 patent relate to (i) identifying information (dependent claims 2, 6, 9, and 13), (ii) type of information (dependent claims 3 and 10), and (iii) source and display of information (dependent claims 4, 5, 7, 11, 12, 14, and 15). But claiming variations related

1 to the type and source of information is not inventive. *See Elec. Power Grp.*, 830 F.3d at 1355.
 2 Claim 12's recitation of a telematics networks is also not inventive because there is no disclosure
 3 of how the generic network must be configured in any "inventive" manner to accomplish the desired
 4 results. *See Credit Acceptance*, 859 F.3d at 1056.

5 None of these additional features disclosed by independent claim 8 or the dependent claims
 6 amount to an inventive feature or renders the claims any less abstract. Regardless of their form,
 7 therefore, all of the claims of the '365 patent fail both prongs of Alice because they are directed to
 8 an abstract idea and recite no inventive concept. *See Alice*, 573 U.S. at 221.

9 **IV. CONCLUSION**

10 For the foregoing reasons, Particle respectfully requests that the Court dismiss SPIS's
 11 Complaint for failure to state a claim upon which relief can be granted. Because leave to amend
 12 would be futile, Particle requests dismissal with prejudice.

13
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COOLEY LLP

15
 16 /s/ Reuben H. Chen
 17 REUBEN H. CHEN (228725)
 18 (rchen@cooley.com)
 19 LAM K. NGUYEN (265285)
 20 (lnguyen@cooley.com)
 21 KYUNG TAECK MINN (334439)
 22 (rminn@cooley.com)
 23 3175 Hanover Street
 24 Palo Alto, California 94304-1130
 25 Telephone: (650) 843 5000
 26 FACSIMILE: (650) 849 7400

27 *Attorneys for Defendant*
 28 PARTICLE INDUSTRIES, INC.